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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,198	10/24/2003	Kurt W. F. Rumens	243148017US	2330
25096	7590	03/15/2005	EXAMINER	
PERKINS COIE LLP			COCKS, JOSIAH C	
PATENT-SEA			ART UNIT	
P.O. BOX 1247			PAPER NUMBER	
SEATTLE, WA 98111-1247			3749	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

Office Action Summary	Application No.	Applicant(s)	
	10/693,198	RUMENS, KURT W. F.	
	Examiner	Art Unit	
	Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed 1/06/2005 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 574,271 to Roberts ("Roberts") (previously cited) in view of U.S. Patent No. 605,713 to Heitland ("Heitland") U.K. Patent No. 2 180 0567 to Raby ("Raby") (previously cited).

Roberts discloses an invention similar to that recited in applicant's claims 1-30. In particular, Roberts shows a fireplace assembly comprising a firebox (B), an outer housing (A) surrounding the firebox (B) and spaced apart from portions of the firebox to define an airflow passageway (i', b, a, b') around the firebox (B), the airflow passageway having an inlet an outlet. Roberts also shows a receptacle (J) integrally connected to the top portion of outer housing and in fluid communication with the airflow passageway. The receptacle is configured to receive a water pan (I') that includes water that is evaporated by the heat produced by as gas burner (G and

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F) and is moveable relative to the outer housing between an open position and a closed position to access the water pan (see column 2, lines 96-102).

Roberts does not disclose that the receptacle is recessed within the outer housing or that the receptacle contains a selected aromatic material.

Heitland teaches a fireplace assembly that is analogous to that of Roberts. In Heitland the top portion of a fireplace includes a heating chamber/receptacle (B) that is recessed in an outer housing and is in fluid communication with heated air and combustion products from the fireplace (see col. 2, lines 96-104 and Figs. 1-3).

Raby teaches the use of a selected aromatic material, that may be a liquid, that is employed in a gas fireplace and is subject to heat from the fireplace to evaporate the liquid, in the same manner as the water in the water pan of Heitland is evaporated, to distribute a pleasing scent to a room during the use of the fireplace (see page 1, lines 31-47).

Therefore, in regard to claims 1-30, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the fireplace assembly of Roberts to incorporate the recessed chamber/receptacle of Heitland as when the box recessed the fireplace has a finished appearance while still providing the benefit of a chamber/receptacle heated by the fireplace (see Heitland, col. 1, lines 18-22 and 40-50). Heitland also acknowledges that is understood in the art that the chamber may have different locations with respect to the fireplace (see Heitland, col. 2, lines 1-8) and it would therefore be also obvious to a person of ordinary skill in the art to alter the location of the receptacle of Roberts to a location as desired based on this teaching in Heitland. It would also have been obvious to modify Roberts to incorporate the

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aromatic materials taught in Raby to desirably provide a pleasing scent to a room during use of the fireplace (see Raby, page 1, lines 21-27).

Response to Arguments

4. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is


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(571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
March 10, 2005


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749